



BILLING CODE: 6750-01S

FEDERAL TRADE COMMISSION

[File Nos. 182 3106 and 182 3107]

Aleksandr Kogan and Alexander Nix; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreements; Request for Comment.

SUMMARY: The consent agreements in these matters settle alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent orders -- embodied in the consent agreements -- that would settle these allegations.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY**

INFORMATION section below. Write: "Aleksandr Kogan and Alexander Nix; File Nos. 182 3106 and 182 3107" on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Linda Holleran Kopp (202-326-2267), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR § 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for July 24, 2019), on the World Wide Web, at <https://www.ftc.gov/news-events/commission-actions>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]. Write “Aleksandr Kogan and Alexander Nix; File Nos. 182 3106 and 182 3107” on your comment. Your comment - including your name and your state - will be placed on the public record of this proceeding, including, to the extent practicable, on the <https://www.regulations.gov> website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you prefer to file your comment on paper, write “Aleksandr Kogan and Alexander Nix; File Nos. 182 3106 and 182 3107” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential” – as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2) – including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC Website – as legally required by FTC Rule 4.9(b) – we cannot redact or remove your comment from the FTC Website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Analysis of Proposed Consent Orders to Aid Public Comment

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, two agreements containing consent orders from Aleksandr Kogan and Alexander Nix, individuals.

The proposed consent orders have been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreements and the comments received, and will decide whether it should withdraw from the agreements and take appropriate action or make final the agreements' proposed orders.

Aleksandr Kogan, until September 2018, was a Senior Research Associate and Lecturer at the Department of Psychology at the University of Cambridge in the United Kingdom. Kogan was also the developer of a Facebook application called the GSRApp, sometimes publicly referred to as the "thisisyourdigitallife" app.

Alexander Nix, until April 2018, was the Chief Executive Officer of Cambridge Analytica LLC and the head of SCL Elections Ltd.

The Commission's proposed complaint alleges that Kogan, together with the data analytics company, Cambridge Analytica, LLC, and its Chief Executive Officer, Alexander Nix, used the GSRApp to harvest certain Facebook user profile data from approximately 250,000–270,000 Facebook users who directly interacted with the app ("App Users"), as well as 50–65 million of the "friends" in those users' Facebook social network. The proposed complaint alleges that Respondents obtained the App Users' consent to collect their Facebook profile data through false and deceptive means.

The Commission's proposed complaint alleges a violation of Section 5(a) of the Federal Trade Commission Act, specifically that Respondents' representation to App Users that it would not "download [their] name or any other identifiable information"

was deceptive because the GSRAApp, in fact, collected identifiable information from these users, including their Facebook User ID.¹

The proposed consent orders contain injunctive provisions addressing Kogan's and Nix's alleged unlawful conduct. Part I of the proposed consent orders prohibits Kogan and Nix from making false or deceptive statements regarding the extent to which they protect the privacy and confidentiality of Covered Information as defined in the proposed consent orders, including:

- A. The extent to which they collect, use, share, or sell any Covered Information; and
- B. The purposes for which they collect, use, share, or sell any Covered Information.

Part II of the proposed consent orders relates to the deletion and destruction of Covered Information collected through the GSRAApp, and any information or work product, including any algorithms, derived from such Covered Information, and requires Kogan and Nix to:

- A. Provide a written statement, sworn under penalty of perjury, with the name, address, and phone number for each person with whom they shared any Covered Information collected from consumers through GSRAApp, and any information or work product that originated, in whole or in part, from this Covered Information; and

¹ The Commission also issued an administrative complaint against Cambridge Analytica alleging a similar deception count as well as two additional counts related to its participation in Privacy Shield, a framework that allows companies to transfer personal data lawfully from the European Union to the United States. The complaint alleges that representations on Cambridge Analytica's website that Cambridge Analytica participated in Privacy Shield after May 2018 were deceptive because the company did not take the steps necessary to renew Cambridge Analytica's certification when it expired in May 2018. The complaint also alleges that representations on Cambridge Analytica's website that Cambridge Analytica adheres to Privacy Shield's principles were deceptive because Cambridge Analytica failed to comply with Privacy Shield's requirement to affirm to the Commerce Department that the company would continue to apply the principles to personal information that it received during the time it participated in the program.

B. Delete or destroy all Covered Information collected from consumers through the GSRAApp, and any information or work product, including any algorithms or equations, that originated, in whole or in part, from this Covered Information, which destruction must generally occur within ten (10) days from the effective date of the proposed orders. Kogan and Nix must then provide a statement, sworn under penalty of perjury, confirming that the data has been destroyed or deleted.

Parts III through VII of the proposed consent orders are reporting and compliance provisions, which include recordkeeping requirements and provisions requiring Respondents to provide information or documents necessary for the Commission to monitor compliance. The proposed consent orders will be in effect for twenty (20) years.

The purpose of this analysis is to aid public comment on the proposed orders. It is not intended to constitute an official interpretation of the proposed complaint or proposed orders, or to modify in any way the proposed orders' terms.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2019-16372 Filed: 7/31/2019 8:45 am; Publication Date: 8/1/2019]